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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101207737-2141-02]

RIN 0648-XC110

Fisheries of the Exclusive Economic Zone Off Alaska; Arrowtooth Flounder, Flathead Sole, Rex Sole, Deep-water Flatfish, and Shallow-water Flatfish in the Gulf of Alaska Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for arrowtooth flounder, flathead sole, rex sole, deep-water flatfish, and shallow-water flatfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to limit incidental catch of Pacific ocean perch by vessels fishing for arrowtooth flounder, flathead sole, rex sole, deep-water flatfish, and shallow-water flatfish in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 10, 2012, through 2400 hrs, A.l.t., December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Magnuson-Stevens Act requires that conservation and management measures prevent overfishing. The 2012 Pacific ocean perch overfishing level in the Western Regulatory Area of the GOA is 2,423 metric tons (mt) and the acceptable biological catch (ABC) is 2,102 mt as established by the final 2012 and 2013 harvest specifications for groundfish in the GOA (77 FR 15194, March 14, 2012). NMFS closed directed fishing for Pacific ocean perch on July 2, 2012 (77 FR 39649, July 5, 2012) and prohibited retention of Pacific ocean perch on July 10, 2012 (publication in FR pending).

As of July 9, 2012, approximately 2,428 mt of Pacific ocean perch has been harvested in the Western Regulatory Area of the GOA. Vessels targeting various rockfish species have had significant incidental catch of Pacific ocean perch and have taken the majority of Pacific ocean perch in the Western Regulatory Area of the GOA in 2012. Directed fishing for all rockfish species categories is closed in the Western Regulatory Area of the GOA. However, substantial fishing effort is being directed at fisheries currently open to directed fishing in the Western Regulatory Area of the GOA, including arrowtooth flounder, flathead sole, rex sole, deep-water flatfish, and shallow-water flatfish. If vessels are allowed to continue directed fishing for arrowtooth flounder, flathead sole, rex sole, deep-water flatfish, or shallow-water flatfish in the Western Regulatory Area of the GOA, further incidental catch of Pacific ocean perch would occur. “Deep-water flatfish means” Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole. “Shallow-water flatfish” means flatfish not including “deep-water flatfish,” flathead sole, rex sole, or arrowtooth flounder.

The Regional Administrator has determined, in accordance with § 679.20(d)(3), that prohibiting directed fishing for arrowtooth flounder, flathead sole, rex sole, deep-water flatfish, and shallow-water flatfish in the Western Regulatory Area of the GOA is necessary to prevent further incidental catch of Pacific ocean perch.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, would delay prohibiting directed fishing for arrowtooth flounder, flathead sole, rex sole, deep-water flatfish, and shallow-water flatfish in the Western Regulatory Area of the GOA and allow further incidental catch of Pacific ocean perch to occur in these fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 9, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: July 10, 2012.

James P. Burgess,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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